

**FILED**

**United States Court of Appeals  
Tenth Circuit**

**UNITED STATES COURT OF APPEALS**

**FOR THE TENTH CIRCUIT**

**July 3, 2013**

**Elisabeth A. Shumaker  
Clerk of Court**

WILLIAM REECE; DIANE REECE;  
HERMAN TOLBERT; BENNETT  
TANKSLEY; SUSAN HOLMES;  
CHARLES TACKETT,

Petitioners,

v.

AES CORPORATION, a Delaware corporation; AES SHADY POINT, INC., a Delaware corporation; AES SHADY POINT, LLC, a Delaware limited liability company; MMHF, LLC, an Oklahoma limited liability company, a/k/a Making Money Having Fun, LLC, a/k/a Clean Hydro Reclamation, a/k/a Clean Hydro Evacuation, LLC; THUMBS UP RANCH, LLC, an Oklahoma limited liability company; DARYL J. JACKSON, individually, d/b/a Daryl Jackson Trucking; KEVIN J. JACKSON, an individual; KENNETH JACKSON, an individual; CHAD JACKSON, an individual; GCI MINING, an Oklahoma corporation, a/k/a George Colliers, Inc.; MOUNTAIN MINERALS, INC., a Delaware corporation; BRAZIL CREEK MINERALS, INC., an Oklahoma corporation; FARRELL-COOPER MINING COMPANY, an Arkansas corporation, ASH GROVE RESOURCES, LLC, a Kansas limited liability company; MARINE COAL SALES COMPANY, a Delaware corporation; HUNTER RIDGE COAL COMPANY, a Delaware

No. 13-604  
(D.C. No. 6:12-CV-00457-JH)

corporation, a/k/a Anker Energy Corporation; INTERNATIONAL COAL GROUP, LLC, a Delaware limited liability company; LEFLORE COUNTY COAL COMPANY, an Oklahoma corporation; COAL CREEK MINERALS, LLC, a Delaware limited liability company; MIKE'S TRUCKING, INC., an Oklahoma corporation; MCCORKLE TRUCK LINE, INC., an Oklahoma corporation; HOWZE TRUCKING, INC., an Oklahoma corporation; STAR BULK, a Texas corporation, a/k/a PX Transportation, Inc.; MABRY TRUCKING, INC., AT, a Virginia corporation; MCM TRUCKING, LLC, an Oklahoma limited liability company; KELLY TRUCKING, LLC, an Oklahoma limited liability company; WILKETT TRUCKING CO., an Oklahoma corporation; CX TRANSPORTATION, INC., a Texas corporation; SEECO, INC., an Arkansas corporation, a/k/a SWN Production Company, a/k/a Southwestern Energy Production Company, Inc., a/k/a Southwestern Oil & Gas Company; XTO ENERGY, INC., a Delaware corporation; STEPHENS PRODUCTION COMPANY, an Arkansas corporation; CDX GAS, LLC, a Texas limited liability company; CHESAPEAKE OPERATING, INC., an Oklahoma corporation; PETROHAWK OPERATING COMPANY, a Texas corporation; HANNA OIL & GAS COMPANY, an Arkansas corporation; HIGHLAND OIL & GAS, LLC, a Delaware limited liability company; CHOLLA PETROLEUM, INC., a Texas corporation; BP AMERICA PRODUCTION COMPANY, a Delaware corporation; ROSS PRODUCTION COMPANY, an Arkansas corporation, a/k/a Ross Production Co., a/k/a McCord

Oil Company, a/k/a Ross Explorations, Inc.; SHIELDS OPERATING, INC., an Arkansas corporation; ENERVEST OPERATING, LLC, a Delaware limited liability company; MCCUTCHIN PETROLEUM CORPORATION, a Texas corporation; LYONS & LYONS, INC., an Oklahoma corporation; SEDNA ENERGY, INC., an Arkansas corporation; HOGBACK EXPLORATION, INC., an Arkansas corporation; A&A TANK TRUCK COMPANY, an Oklahoma corporation; BISHOP TRUCKING, an Oklahoma corporation; BEAR PRODUCTIONS, INC., an Oklahoma corporation; TRC SERVICE COMPANY, INC., an Oklahoma corporation; GRACO FISHING & RENTAL TOOLS, INC., an Oklahoma corporation; TOTAL OILFIELD SERVICES, an Oklahoma corporation; WEST-ARK OILFIELD SERVICES, LLC, a foreign limited liability company; TXD TRANSPORT, LP, a foreign limited partnership; MIKE KREBBS CONSTRUCTION, INC., an Oklahoma corporation; BIG MAC TANK TRUCKS, LLC, a Delaware limited liability company, a/k/a Oklahoma Big Mac Tank Trucks, LLC; B&B GAS WELL SERVICES, LLC, an Oklahoma limited liability company; BEAR TRANSPORTS, LLC, an Oklahoma limited liability company; REDWINE RESOURCES, INC., a Texas corporation; R&J TRUCKING, INC., an Oklahoma corporation; ARKOMA SERVICES COMPANY, LLC, a foreign limited liability company,

Respondents.

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**ORDER**

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Before **HARTZ, TYMKOVICH**, and **MATHESON**, Circuit Judges.

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This petition for permission to appeal is before the court on respondent XTO Energy, Inc.'s *Motion to Dismiss*. We also have a response from petitioners, and a reply from XTO. We have reviewed carefully these pleadings, as well as the district court's orders and the materials on file in the district court. Upon consideration, we conclude this petition is untimely, and we grant the motion to dismiss. The Clerk is directed to close this matter.

Entered for the Court

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", followed by a horizontal flourish line.

ELISABETH A. SHUMAKER, Clerk